

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Annie Feng, Planner II

SUBJECT: Quasi Judicial Hearing: Variance
V 1-1-04, Lance M. Comegys, 3910 SW 54 Avenue, Generally located on
the east side of SW 54 Avenue, 75 feet south of SW 39 Street

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM:

The petitioner requests a Variance **FROM:** Section 12-81 of the Land Development Code which requires a minimum side setback of 15 feet for a storage building more than 150 square feet in area; **TO:** reduce the north side setback for the storage building to eight (8) feet.

REPORT IN BRIEF:

The minimum lot size required by the R-3 zoning district is 12,000 square feet, and the required minimum lot frontage is 100 feet. The subject property is a legal non-conforming lot with 75 feet of lot frontage. The lot size (22,939 square feet) exceeds the minimum required lot size (12,000 square feet) for the R-3 zoning district. The house and the garage were built in the 1970s under the Broward County Code. The north side setback is 7.6 feet for the existing house and 7.98 feet for the garage. The existing 24.2' x 25.2' slab, adjacent to the east side of the garage, is 8.2 feet from the north property line. The applicant is proposing to build a storage building (25' x 25') on the existing slab. Therefore, a variance is required to reduce the setback for the storage building to 8 feet from the north property line.

Although the lot frontage is 25 feet less than the minimum required frontage of 100 feet, it does not create a hardship for the proposed 25' x 25' storage building to meet the required 15-foot side setbacks if it is placed in the middle of the lot. However, the variance will allow the storage building to be constructed in line with the existing structures on the north side. The requested variance is the minimum variance to accomplish this purpose. There is a six-foot-high wood fence between the subject property and the neighbor to the north. The storage building with the proposed 8-foot setback will not impact to the neighbor more than the existing house and garage, as it is within the same setback line and the height of the storage building will be less than the main house as required by code.

PREVIOUS ACTIONS: None

CONCURRENCES: At the February 25, 2004 Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded Mr. Stevens to approve (motion carried 4-0 with Ms. Lee absent).

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds that the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report, Justification letter, Land use map, Subject site map, Aerial, and property survey.

Application #: V 1-1-04 Comegys
Exhibit "A"

Revisions: 2/26/04
Original Report Date: 2/12/04

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Staff Report and Recommendation

Application Information

Owner/Petitioner:

Name: Lance M. Comegys
Address: 3910 SW 54 Avenue
City: Davie, FL 33314
Phone: (954) 321-0640

Background Information

Date of Notification: February 18, 2004

Number of Notifications: 156 (1,000 feet notification)

Planning and Zoning Board Recommendation: At the February 25, 2004 Planning and Zoning Board meeting, the board made a motion to approve the variance.

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** Section 12-81 of the Land Development Code which requires a minimum side setback of 15 feet for a storage building more than 150 square feet in area; **TO:** reduce the north side setback for the storage building to eight (8) feet.

Address/Location: 3910 SW 54 Avenue, Generally located on the east side of SW 54 Avenue, 75 feet south of SW 39 Street

Future Land Use Plan Designation: Regional Activity Center

Zoning: R-3 (Low Density Dwelling District)

Existing Use: Single Family Home

Proposed Use: Single Family Home

Parcel Size: 22,939 square feet

Surrounding Land

	<u>Surrounding Uses:</u>	<u>Use Plan Designation:</u>
North:	Single Family Home	Regional Activity Center
South:	Single Family Home	Regional Activity Center
East:	Single Family Home	Regional Activity Center
West:	Single Family Home	Regional Activity Center

	<u>Surrounding Zoning:</u>
North:	R-3 (Low Density Dwelling District)
South:	R-3 (Low Density Dwelling District)
East:	R-3 (Low Density Dwelling District)
West:	R-3 (Low Density Dwelling District)

Zoning History

The plat, Lauderdale Little Ranches First Addition, was approved by the Board of County Commissioners of Broward County in the 1960s.

Application Details

The subject property is a one-story single-family house located in the R-3 zoning district. The R-3 zoning district requires a 15-foot side setback for main structures and accessory structures over 150 square feet in area. The existing house is 7.6 feet from the north property line and a detached garage at the back of the house is 7.98 feet from the north property line. The applicant is requesting a variance to reduce the north side setback to 8 feet for a storage building proposed on the existing slab north to the garage, 8.2 feet from the north property line. The proposed structure will be in line with the existing house and garage on the north side.

Applicable Codes and Ordinances

1. Section 12-81(A) of the Land Development Code requires a minimum side setback of 15 feet for Single-family homes in the R-3 zoning district (Low Density Dwelling District).
2. Section 12-33 (A) (2) of the Land Development Code requires that storage sheds, accessory buildings and structures over 150 square feet in area shall be subject to the limitations on the location of a building and shall not be placed in any required yard.
3. Section 12-309, Review criteria for variances.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 8. This Planning Area is the heart of Davie and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). It is bounded on the north by Nova Drive, south by Orange Drive, east by

Florida's Turnpike, and west by University Drive. The planning area encompasses the downtown Davie Business District, where western theme architecture is required, the Davie Town Hall and Rodeo Arena, two large mobile home communities, and industrial land.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 98.

Applicable Goals, Objectives and Policies:

Objective 1: No later than December 1, 1989, the Town shall adopt and implement land development regulations, including subdivision regulations, that will encourage and facilitate residential development in accordance with the Future Land Use Plan, and in an aesthetically and environmentally sound manner.

Policy 1-1: The Town shall investigate and implement, as appropriate, innovative land development regulations that afford flexibility in developing residential communities while maintaining adequate standards necessary to promote the health, safety and welfare of Town residents.

Staff Analysis

The minimum lot size required by the R-3 zoning district is 12,000 square feet, and the required minimum lot frontage is 100 feet. The subject property is a legal non-conforming lot with 75 feet of lot frontage. The lot size (22,939 square feet) exceeds the minimum required lot size (12,000 square feet) for the R-3 zoning district. The house and the garage were built in the 1970s under the Broward County Code. The north side setback is 7.6 feet for the existing house and 7.98 feet for the garage. The existing 24.2' x 25.2' slab, adjacent to the east side of the garage, is 8.2 feet from the north property line. The applicant is proposing to build a storage building (25' x 25') on the existing slab. Therefore, a variance is required to reduce the setback for the storage building to 8 feet from the north property line.

Although the lot frontage is 25 feet less than the minimum required frontage of 100 feet, it does not create a hardship for the proposed 25' x 25' storage building to meet the required 15-foot side setbacks if it is placed in the middle of the lot. However, the variance will allow the storage building to be constructed in line with the existing structures on the north side. The requested variance is the minimum variance to accomplish this purpose. There is a six-foot-high wood fence between the subject property and the neighbor to the north. The storage building with the proposed 8-foot setback will not impact to the neighbor more than the existing house and garage, as it is within the same setback line and the height of the storage building will be less than the main house as required by code.

Finding of Facts

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

- (a) There may be a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district;

The subject site is a legal non-conforming lot with 75 feet of lot frontage while the minimum required lot frontage for the R-3 zoning district is 100 feet. The lot size of 22,939 square feet exceeds the minimum required lot size of 12,000 square feet.

and that said circumstance or condition may not be such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought;

However, this physical constrain does not keep the applicant from constructing a 25' x 25' storage building with the required 15-foot setbacks. Therefore, the strict application of the provisions of this chapter would not deprive the applicant of the reasonable use of such land or building.

and the alleged hardship may be self-created by persons having an interest in the property.

It is the applicant's intension to use the existing concrete slab, 8.2 feet from the north property line, and keep the storage building in line with the existing structures. The alleged hardship may be considered self-created.

- (b) Granting of the variance may not be necessary for the reasonable use of the land or building and that the variance as requested may not be the minimum variance that will accomplish this purpose.

Granting of the variance may not be necessary for the reasonable use of the land since there is enough room to build the same structure and meet the required setbacks. However, to build the storage building in line with the existing structures and use the existing slab, the required variance is the minimum variance to accomplish this purpose.

- (c) Granting of the requested variances may not be in harmony with the general purpose and intent of this chapter and may not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Granting of the requested variance may not be in harmony with the general purpose and intent of this chapter since the property does not have particular physical hardship keeping the owner from the reasonable use of the property and meeting the setback requirements. However, there is a wood fence between the subject property and the neighbor to the north. The storage building with the proposed 8-foot setback will not impact the neighbor more than the existing house and garage, as it is within the same setback line and the height of the storage building will be less than the main house as required by code. Therefore, granting of the requested variance may not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and the Town Council for further consideration.

Planning & Zoning Board Recommendation

At the February 25, 2004 Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded Mr. Stevens to approve (motion carried 4-0 with Ms. Lee absent).

Exhibits

Justification letter, Site Survey, Subject Site Map, Land Use Map and Aerial

Prepared by: _____

Reviewed by: _____

**Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733
(954) 321-0640**

January 10, 2004

TO: Davie Town Council

VIA: Planning and Zoning Board

I am seeking a variance for land utilization of accessories in size to provide my family with a reasonable use of our property. The accessories items for which the special circumstances may apply is a 25x25 foot storage building on an existing Town of Davie and Broward County approved concrete slab and footer which is in line with an existing structure. The amount of encroachment is minimal with the property's layout and models neighboring residences.

The criteria for the variance; an existing concrete slab and footer was installed in 1999 in accordance with the Town of Davie and Broward County codes (permit number 99-00000014) was specifically constructed for this structure. The slab and footers follows lines of the existing garage that was constructed in the 1970's. It was my understanding at that time, that I would be able to add the structure to this slab and footer at a later date. By relocating the slab in accordance with the R-3 zoning it would affect the accessibility to Florida Power and Lights (FP&L) power lines which runs the full length of the rear of the property line (see FPL attachment). The current zoning for R-3, is a 15foot side setbacks, under **Table 12-81A**, a minimum lot frontage is 100 feet wide. The current lot is 75.0 feet wide

and 305.85 feet deep. The property has a total of 22,939 square feet of area; the total setback area for the property is 11,650 square feet, which equates to 50.8% of the property allotted for setback area. Fifty-one percent is somewhat excessive in this case, and I am respectfully asking that my family be allowed to encroach less than 4% into the setback area.

This equates to 200 square feet for the footer area of the existing slab with which the storage building will be attached to. This will be the extent of the encroachment into the setback area. If this lot were a conforming lot that met the 100-foot width requirement the setback percentage would be only 29.9%, based on the same (22,939) square footage. The difference between 50.8% (setback area) and 29.9% is 20.9%; therefore having a nonconforming lot has a major disadvantage when it comes to improvements and it is hoped that this will be taken into consideration.

The minimum variance would be an 8-foot wide by 25 feet long area for the existing slab and footer with the storage building attached.

SUMMARY

1. The closest portion of the concrete slab would be 7 feet from property line.
2. The closest portion of the storage building would be 7.5 feet from the property line, which follows the current contour of the existing garage.

The storage building would be located on the north side of the back yard adjacent to the neighbor's rear driveway and would not be injurious to the neighborhood or otherwise detrimental to the public welfare of our neighborhood and community. A six-foot wooden privacy fence bisects the neighbor's property from our property and borders the property line.

I enjoy the neighborhood that I live in, and will continue to reside at this location for many years to come. I have been employed with the federal government for the past fifteen years. Since my transfer to the South Florida area thirteen years ago I have enjoyed the lifestyle that the Town of Davie has afforded me, my wife and my three small children. We believe in the open space zoning and the rural lifestyle the Town of Davie fosters. In addition, we respect the current zoning regulations, however the non-conforming lot that we currently reside at is very constricting for simple improvements.

I respectfully ask your permission for this variance of the fore mentioned accessories, in the Town of Davie.

I welcome any questions and suggestions on this variance of land use, and can be contacted at (954) 321-0640 during normal business hours

Attachments:

Current survey / Current survey highlighting encroachment

Florida Power and Light letter

Pictures of back yard / *Neighbor Letters*

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

January 09, 2004

Dear neighbor,

I am seeking a variance for land usage, with the Town of Davie.

Part of this process includes the neighbors, which I have come to call on.

This variance is for a storage building to be installed on an existing slab.

The location of the fore mentioned is located on the North side in the back yard. A picture is provided to you for your approval. I welcome all neighbors that wish to stop by and view the subject accessories.

The criteria for the variance; is the existing permitted and approved slab and building would follow the lines of the existing garage that the slab is in line with. Additionally if the building was located in an alternate location it would hinder FP&L from being able to service power lines across the back of the property.

Following the public hearing notice, the variance would reduce the side setback. The amount of encroachment is 200 square feet out of 22939 square feet. The slab and storage building are located adjacent to the neighbor's garage and would not be injurious to the neighborhood or otherwise detrimental to the public welfare of our neighborhood.

I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME Robert B & Margaret O Einy

SIGNATURE *Robert B. Einy*

ADDRESS 3901 SW 54 Ave Davie, FL 33314

DATE 1/09/04

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

Dear neighbor,

I am seeking a variance for land usage, with the Town of Davie.

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The location of the fore mentioned is located on the North side in the back yard. A picture is provided to you for your approval. I welcome all neighbors that wish to stop by and view the subject accessories.

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I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME Ruth I. Trinidad SIGNATURE Ruth I. Trinidad
ADDRESS 3939 S.W. 54th Ave. Davie, FL 33314 DATE Dec. 23, 03

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

Dear neighbor,

I am seeking a variance for land usage, with the Town of Davie.

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Following the public hearing notice, the variance would reduce the side setback. The amount of encroachment is 200 square feet out of 22939 square feet. The slab and storage building are located adjacent to the neighbor's garage and would not be injurious to the neighborhood or otherwise detrimental to the public welfare of our neighborhood.

I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME Army Buckley SIGNATURE 
ADDRESS 3900 SW 54 Avenue Davie FL 33314 DATE 12/23/03

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

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I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME Mark Wayne Bray SIGNATURE Mark Wayne Bray
ADDRESS 3911 SW 53rd St. DATE Jan 1 2004

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

Dear neighbor,

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I respectfully ask your permission to allow the fore mentioned variance of land use procedures in the Town of Davie.

NAME E. L. Biller SIGNATURE E. L. Biller
ADDRESS 3912 S.W. 53 AV DATE 12-23-03

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

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Following the public hearing notice, the variance would reduce the side setback. The amount of encroachment is 200 square feet out of 22939 square feet. The slab and storage building are located adjacent to the neighbor's garage and would not be injurious to the neighborhood or otherwise detrimental to the public welfare of our neighborhood.

I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME Jose O. Trinidad SIGNATURE Jose O. Trinidad
ADDRESS 3939 S.W. 54 AVE DAVIE, FL 33314 DATE 12-23-03

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

Dear neighbor,

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I respectfully ask your permission to allow the fore mentioned variance of land use procedures in the Town of Davie.

NAME Don Johnson SIGNATURE 
ADDRESS 3940 SW 54 AVE DATE 12-22-03

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

Dear neighbor,

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I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME KATHERINE NAGLE

SIGNATURE

Katherine Nagle

ADDRESS 3940 SW 54th AVE

DATE 12/22/03

Lance M. Comegys
3910 S. W. 54th AVENUE
DAVIE, FL 33314-3733

December 10, 2003

Dear neighbor,

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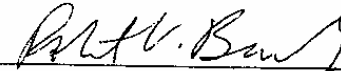
Following the public hearing notice, the variance would reduce the side setback. The amount of encroachment is 200 square feet out of 22939 square feet. The slab and storage building are located adjacent to the neighbor's garage and would not be injurious to the neighborhood or otherwise detrimental to the public welfare of our neighborhood.

I respectfully ask your permission to allow the fore mentioned variance of land

use procedures in the Town of Davie.

NAME Robert V. Backus

SIGNATURE



ADDRESS 3900 SW 54th AVE

DATE 12/21/03



Florida Power & Light Company

November 11, 2003

Lance Comegys
Department of Homeland Security

Fax: 305-717-5309

Re: Easement Variance and Access to FPL Facilities
Lot 16, Block 6 of "Lauderdale Little Ranches First Addition," Plat Book 21,
Page 28, of the Public Records of Broward County, Florida

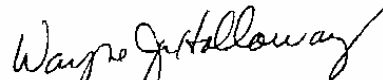
Dear Mr. Comegys:

Thank you for the opportunity to respond to your request for a variance to encroach the existing utility easement at the referenced location.

Be advised that FPL has no objection to said encroachment. Further, it is preferred that your proposed building not obstruct access to the existing FPL facilities in rear of your property, should the local authorities deny your request for the variance.

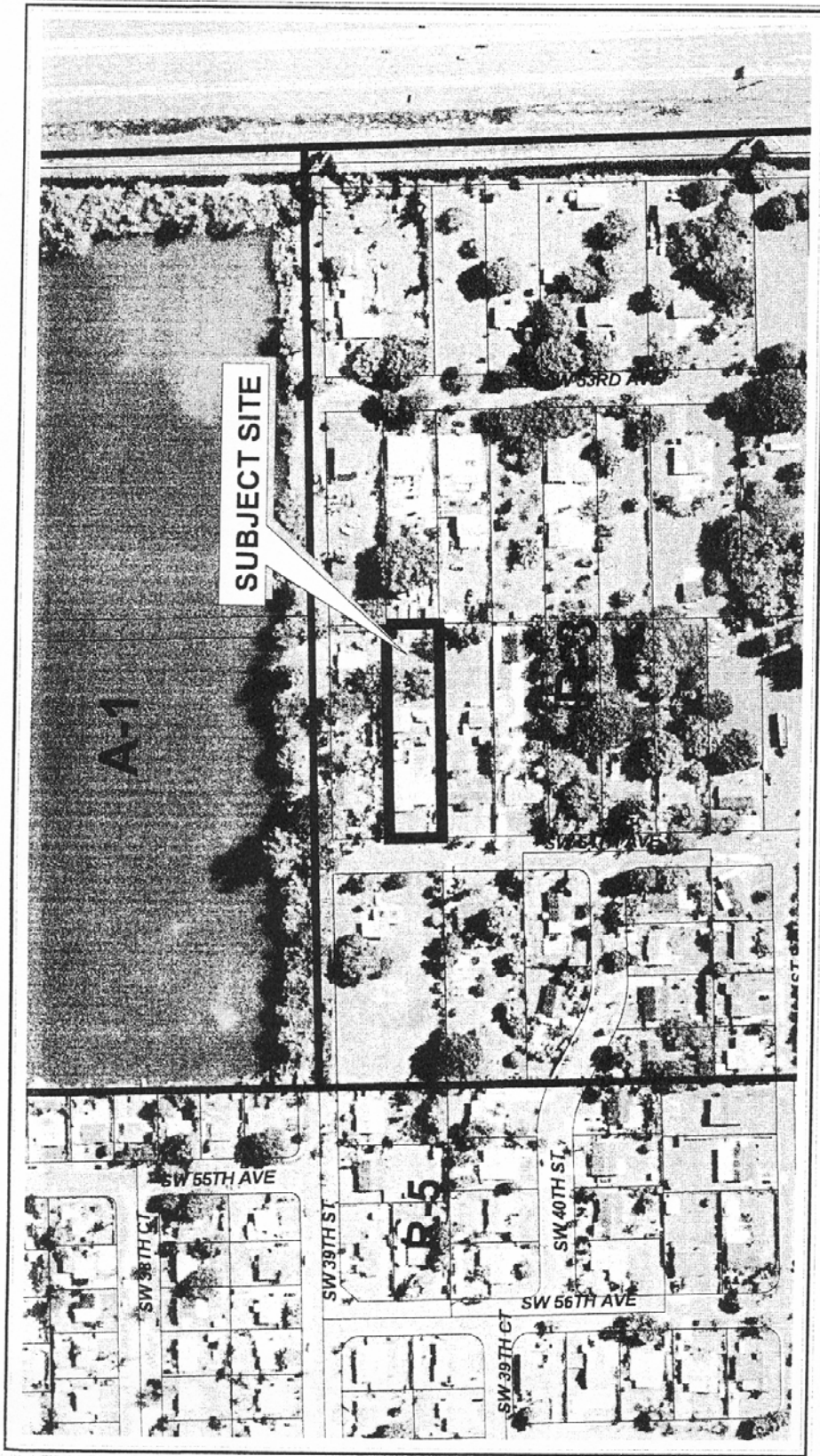
If you have any questions, please contact me at 954-442-6324.

Sincerely,


Wayne J. Holloway
Customer Project Manager

an FPL Group Company





Date Flown:
12/31/02



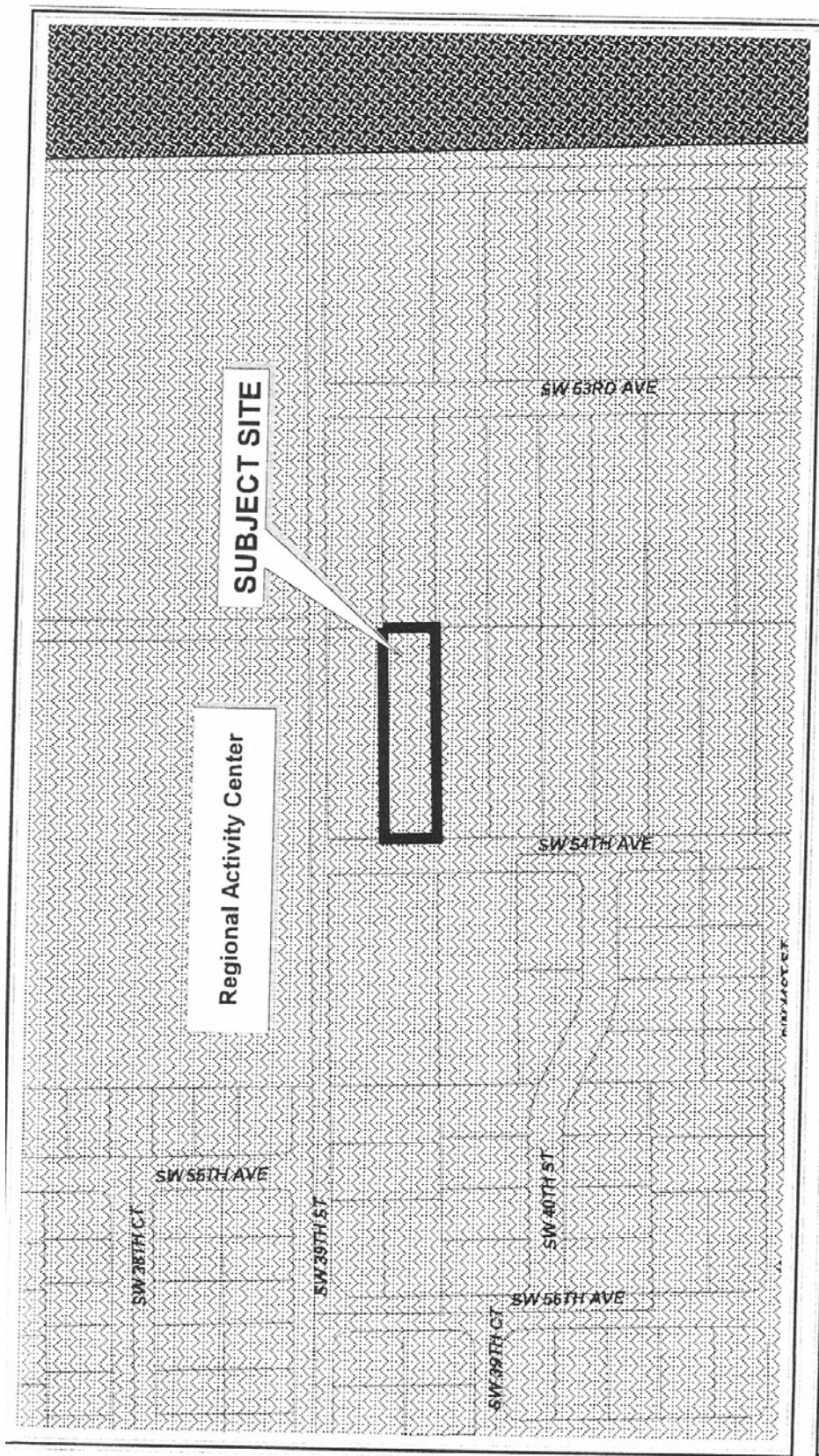
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Planning & Zoning Division - GIS



VARIANCE **V 1-1-04** **Zoning and Aerial Map**

Prepared By: ID
Date Prepared: 2/6/04



**REZONING
ZB 00-00-03
Future Land Use Map**

Prepared By: ID
Date Prepared: 2/6/04



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Planning & Zoning Division - GIS